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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,580

02/26/2004

Yvonne Appoldt

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EXAMINER

HANDY, DWAYNE K

ART UNIT

PAPER NUMBER

1797

NOTIFICATION DATE

DELIVERY MODE

03/31/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/786,580	Applicant(s) APPOLDT ET AL.
	Examiner DWAYNE K. HANDY	Art Unit 1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-13 and 15-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmid (WO 02/073142 and USPN 7,206,664). The Examiner notes that the WO Document was published in 2002 – making it a 102(b) reference. The passages referred to by the Examiner (column and line) are from the corresponding U.S. Patent. ('664). Schmid teaches a system and method for mixing substances. The system is best shown in Figure 1 and described in column 3. The system includes a measuring device (6) - a scale - in communication with a processor unit (2), a memory unit (3), a display unit (4), an input unit (5), and a communication module (7). The system operates in response to a selection of mixing programs and other user inputs. The mixing formula programs may be accessed from the local processing and memory unit or may be called up from an external server (30) by the communication module (7). Schmid teaches recording data from the mixing process and using the database to

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compare results and/or update the system in column 3, lines 35-41 and column 5, line 40 - column 6, line 26. The use of wireless systems to transmit data is mentioned throughout the disclosure.

3. Claims 1-7, 9-21 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dellacoma et al. (EP 0 651 306). Dellacoma teaches an apparatus and method for preparing solutions. The system is best shown in Figure 1 and described in columns 3 and 4. The system includes a scale as a measuring device (2) for holding a container (3), a metering means (5), and central control unit (10). The Examiner considers the metering means (5) to be a pipette element. The control unit (10) includes all the procedures and data relating to the preparation of a solution as well as a display unit (11), keyboard (12) and memory units (13-16). Dellacoma teaches data analysis, results comparison and data storage in column 5, line 37 – column 6, line 43. Dellacoma recites adjusting for temperature in column 6, lines 51-56.

4. Claims 1-7 and 9-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Nelson et al. (7,110,861). Nelson teaches a diluting system and method. The system is best shown in Figures 1-3 and described in columns 4-6. The system includes a scale (12) for holding a mixing tank (10), feed line (18) and controller (26). The controller includes microprocessor (40), display (46), keyboard (48) as well as programs for calculating the amount of materials required based on user input (column 6, lines 25-

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48). Nelson teaches the recording of data and event logging in column 9, line 62 – column 10, line 67. Nelson recites adjusting for temperature in column 6, lines 48-54.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Levin et al. (5,402,834), Jandura et al. (5,460,209), Robinette (5,544,684), Brady et al. (5,746,238), Haaser et al. (5,938,080), Tewell (6,120,175) and Jungmann et al. (6,763,860) teach automated mixing devices.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DWAYNE K. HANDY whose telephone number is (571)272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DKH
March 24, 2008

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797